

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 17, 2002

Agenda ID #1543

TO: PARTIES OF RECORD IN RULEMAKING 01-08-028

This is the draft decision of Administrative Law Judge (ALJ) Thomas. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ CAROL BROWN by KH
Carol Brown, Interim Chief
Administrative Law Judge

CAB:sid

Attachment

Decision **DRAFT DECISION OF ALJ THOMAS** (Mailed 12/17/2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency Policies,
Administration and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**OPINION RATIFYING PROCESS FOR COMMISSION
CONSIDERATION OF 2003 ENERGY EFFICIENCY PROGRAMS****I. Introduction**

In this decision, we set forth the process for Commission consideration of energy efficiency funding for 2003. The assigned Administrative Law Judge (ALJ), Sarah R. Thomas, recently proposed such a process to the parties to this proceeding, and solicited comment on the suggested process. This decision responds to the comments, but adopts the same process ALJ Thomas set forth in her ruling.

II. Background

On October 28, 2002, ALJ Thomas issued a ruling pursuant to authority we delegated her in Decision (D.) 01-11-066 proposing that the funding for 2003 statewide energy efficiency programs be distributed in the following manner:

	Allocation of 2003 PGC ¹ Funds (million)	PGE	SCE	SDGE	SoCalGas
Third-Party Local Programs (already allocated)	\$50.000	\$21.744	\$16.460	\$6.859	\$4.937
IOU Statewide and Local Programs	\$202.826	\$88.204	\$66.772	\$27.822	\$20.028
Statewide Marketing/Outreach	\$10.057	\$4.374	\$3.311	\$1.380	\$0.993
EM&V for IOU Programs and other studies	\$10.500	\$4.566	\$3.457	\$1.440	\$1.037
Total	\$273.383	\$118.888	\$90.000	\$37.500	\$26.995

The ruling also stated, “The ruling does not at this time solicit additional local program proposals from third parties because the third-party local programs the Commission funded this year extend through 2003.” This is the area that elicited the greatest number of comments – from third-party non-investor-owned utilities (IOUs) who had anticipated being eligible to seek 2003 statewide energy efficiency funding. We discuss those comments below.

ALJ Thomas’ ruling also set forth a process for IOUs and third parties to seek funding to conduct outreach and marketing of statewide energy efficiency programs, as follows: “For 2003, I anticipate the Commission will allow competitive bidding for statewide marketing and outreach programs so that IOUs and third parties can compete for the \$10.057 million in available funding. The Commission may consider increasing the amount allocated to these programs to as much as \$20 million dollars, depending on the quality of proposals we receive.”

¹ Public Goods Charge.

The ruling (as later corrected)² set forth the following due dates for the proposals:

Event	
IOUs to file program plans for 2003	November 4, 2002
Parties' comments on IOU program plans	November 15, 2002
Any party to file comments on process set forth in this ruling	November 15, 2002
Parties' reply comments on IOU program plans	November 22, 2002
IOUs and third parties to file proposals for statewide marketing and outreach programs	December 2, 2002
Parties' comments on statewide marketing and outreach program proposals	December 16, 2002
Parties' reply comments on statewide marketing and outreach program proposals	December 23, 2002

III. Discussion

A. Ratification of ALJ Ruling

We ratify the ALJ's ruling and do not make changes to the process she outlined. In doing so, we wish to make clear our continued commitment to third-party energy efficiency programs, both local and statewide. We anticipate continuing to seek qualified third parties to sponsor and run energy efficiency programs. Thus, this decision should not be interpreted as changing our commitment to third-party energy efficiency efforts. With that point clarified, we reiterate the contents of ALJ Thomas' ruling, with minor modifications for clarification.

² *Administrative Law Judge's Ruling Clarifying Filing Dates for 2003 Energy Efficiency Program*, dated November 13, 2002.

B. 2003 Process**1. Statewide and Local Energy Efficiency Programs for 2003**

In D.01-11-066, the Commission adopted new energy efficiency policy rules and delegated to the Assigned Commissioner and ALJ many tasks related to implementing those rules. Currently, there is approximately \$273 million available in energy efficiency funding for 2003, and we base our decision on how much money to allocate to programs on the following projected collections. This figure breaks down among the four large IOUs, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas), as follows:

Utility Service Territory	Electric Budget	Gas Budget	Total Annual Budget	Percentage of Total
PG&E	\$106,000,000	\$12,888,000	\$118,888,000	43%
SCE	\$90,000,000	\$0	\$90,000,000	33%
SDG&E	\$32,000,000	\$5,500,000	\$37,500,000	14%
SoCalGas	\$0	\$26,995,000	\$26,995,000	10%
Statewide Total	\$228,000,000	45,383,000	\$273,383,000	100%
Percentage of Total	83%	17%	100%	

A portion of this amount (\$50 million) is already allocated to the third-party local programs that the Commission approved in D.02-05-046 and D.02-06-046. These programs will run through 2003. The remainder of the funds will be allocated in the following way:

	Allocation of 2003 PGC Funds (million)	PGE	SCE	SDGE	SoCalGas
Third Party Local Programs (already allocated)	\$50.000	\$21.744	\$16.460	\$6.859	\$4.937
IOU Statewide and Local Programs	\$202.826	\$88.204	\$66.772	\$27.822	\$20.028
Statewide Marketing/Outreach	\$10.057	\$4.374	\$3.311	\$1.380	\$0.993
EM&V for IOU Programs and other studies	\$10.500	\$4.566	\$3.457	\$1.440	\$1.037
Total	\$273.383	\$118.888	\$90.000	\$37.500	\$26.995

The amount available for IOU statewide and local programs will be \$202.826 million.³ The amount available for statewide marketing/outreach programs on energy efficiency will be \$10.057 million, and will go as high as \$20 million depending on the quality of the proposals.⁴ IOUs and third parties may submit proposals for marketing and outreach programs as discussed below. The amount available for evaluation, measurement and verification (EM&V) of IOU programs and other required evaluative studies will be \$10.5 million. We will address this funding and the nature of the studies in conjunction with our final approval of the IOUs' 2003 programs.

For 2003, the Commission will continue to fund energy efficiency programs in the same categories as those it set forth in D.01-11-066 for 2002—*i.e.*, statewide and local programs offering energy efficiency services in the areas of

³ The total amount will be higher if there are carry over funds from previous years.

⁴ If we award more than \$10.057 million for statewide marketing and outreach, we will allocate the additional amount either from the budget for 2003 IOU programs or from left-over funds from prior years.

residential retrofit, residential new construction, nonresidential retrofit, nonresidential new construction, and cross-cutting programs.⁵

Statewide programs should be uniform, with consistent terms and requirements (*i.e.*, identical application procedures, financial incentives, and other program implementation details) throughout all the IOUs' service territories. The IOUs may continue their 2002 local programs into 2003 if they can demonstrate those programs are successful and that demand for the services they offer still exists at a high level.

On November 4, 2002, the IOUs were required to file and serve their requests for energy efficiency funding for 2003, specifying energy savings, other targets, and detailed budgets for each statewide and local program. The IOUs were required to submit separate plans for each program and include the following items:

- (1) A completed implementation Workbook, which follows the same format used for the program implementation plans for the 2002 programs. The Energy Division sent a sample of the workbook to the IOUs. Any party that wishes a copy shall send a request by e-mail to ztc@cpuc.ca.gov or call (415) 703-2624.
- (2) A narrative that contains the following program plan and budget information, in the following order:
 - Title of individual program
 - Requested total budget
 - Brief description of program (one page or less)

⁵ See discussion of the program mix for 2002 and categories of programs in D.01-11-066, *mimeo.* at 7-18.

- If the program differs from the 2002 program, a list and description of the proposed changes
- If the program is the same as the 2002 program, demonstration that the 2002 program is successful and that demand for the services the program offers still exists at high level
- Energy and peak demand savings targets, as well as per-unit energy savings and unit-count projections, including quarterly performance goals that will result in reaching these targets
- Results of cost-effectiveness calculations, for those programs in which energy savings will be measured (*i.e.*, not information- or education-only programs)
- For information-only programs with no energy savings targets, other objective measures for evaluating program progress
- Hard-to-reach customer segment targets and quantifiable goals
- Plans for coordination with other energy efficiency programs around the state – including those run by the filing IOU, the other three IOUs, local programs being administered by the IOUs, low income programs, or any other energy efficiency programs with the potential for cooperative efforts
- Procedures for responding to customer questions or complaints regarding the program, and for resolving program or performance disputes with program participants or customers

Parties were allowed to file and serve comments on the IOU plans no later than November 15, 2002, and reply comments no later than November 22, 2002.

In developing their program plans and budgets for 2003, each IOU was required to provide an accounting of the total amount of PGC funds available for its energy efficiency programs in 2003. The IOUs were required to include calculations of the expected electric and gas PGC collections for 2003, as

well as an accounting of any funds left over from previous years, including interest, that the IOUs can carry over and budget for 2003 programs.

Each IOU was also required to provide a summary table with their program plans showing the allocation of their total program budgets to various program categories—*i.e.*, statewide vs. local, residential retrofit/new construction, nonresidential retrofit/new construction, and cross-cutting programs.

2. Statewide Marketing/Outreach Programs for 2003

For 2003, the Commission will allow competitive bidding for statewide marketing and outreach programs so that IOUs and third parties can compete for the \$10.057 million in available funding. The Commission may consider increasing the amount allocated to these programs to as much as \$20 million dollars, depending on the quality of proposals we receive. The Commission desires program proposals that maintain a consistent statewide message through a mass-market advertising campaign.

These programs may include information campaigns capitalizing on the success of the state's Flex Your Power campaign. The proposed programs should continue statewide messages on simple things individual consumers can do to reduce their bills and energy consumption, and/or increase consumer awareness of and participation in the statewide programs available to them. They should also primarily focus on an energy efficiency message rather than a conservation message that primarily advocates behavioral changes to save energy. The message should persuade consumers to make permanent changes to

their homes and businesses so that energy savings are not dependent on behavior once the energy efficiency measures are installed.⁶

In addition to marketing and outreach efforts for statewide programs, program proposals may also include activities designed to advertise and provide information regarding third-party local programs available in various IOU service areas. An example of such an activity might be an energy efficiency hotline number included in all statewide outreach/marketing advertisements that would provide answers to customers about PGC-funded energy efficiency programs available in various areas of the state. There will be no limit on the number of program proposals or the value of the funding requests submitted by one entity.

IOUs and interested third parties were required to submit proposals for statewide marketing and outreach programs on or before December 2, 2002. Parties were allowed to file and serve comments on the proposals submitted no later than December 16, 2002, and reply comments no later than December 23, 2002.

C. Bridge Funding for IOU Programs

We anticipate a Commission decision choosing IOU statewide and local programs in the first quarter of 2003. To prevent service disruption, we authorize the IOUs whose programs will expire at the end of 2002 to continue

⁶ As stated in the Energy Efficiency Policy Manual: “The following types of activities are not eligible for energy efficiency program funding out of PGC funds: . . . Load-shifting programs that rely only on temporary or impermanent behavioral change (programs that install *permanent* equipment to manage load, such as energy management systems, are eligible).” D.01-11-066, Attachment 1, at 17 (emphasis in original).

those programs through March 31, 2003, using electric and gas Public Goods Charge collections from that period. If the Commission issues a decision on the IOUs' 2003 program applications prior to that time, this "bridge funding" shall expire upon issuance of that decision. If the IOUs incur expenses in 2003 before the Commission issues this decision, they should track those expenses for future recovery.

The amount of the bridge funding is set forth below. These figures are based on the amounts the IOUs reported they spent on energy efficiency programs in the same period in 2002:

First Quarter 2003 Authorized Funding by Utility

	Total 1Q 2003	January '03	February '03	March '03
PG&E	\$5,700,000	\$1,101,600	\$1,518,600	\$3,079,800
SCE	\$4,200,000	\$550,000	\$1,997,900	\$1,652,100
SDG&E	\$2,900,000	\$778,700	\$681,100	\$1,440,200
SoCalGas	\$2,200,000	\$990,000	\$625,100	\$584,900
Total	\$15,000,000	\$3,420,300	\$4,822,700	\$6,757,000

We will offset the bridge funding against the total 2003 IOU funding amounts set forth in the chart on page 2 of this decision so that the bridge funding plus funding for new 2003 programs are equal to the amounts in that chart. The IOUs may only use these funds for their 2002 programs authorized in D.02-03-056 and D.02-05-046.

IV. Comments on Draft Decision

As noted, ALJ Thomas solicited comments on her draft ruling. We also solicit comments in this decision, as set forth below.

Several parties commenting on the ruling (RESCUE/SESCO, ABAG, Ecology Action, and Cal-Ucons) objected to the lack of more third-party (non-

IOU) participation in the 2003 funding cycle. We understand that non-IOUs are interested in continuing to participate in energy efficiency programs, and we have not abandoned our commitment to allowing such participation. Indeed, third parties are active participants in many local energy efficiency programs in 2003. We will continue to seek such participation in the future.

Other commenters (ABAG, University of California/California State University, County of Los Angeles, Ecology Action, Women's Energy Matters) urged the Commission to ramp up the phase of this proceeding aimed at examining alternative means of administering energy efficiency programs. We agree that this is an important goal, and plan to examine the complex issues surrounding program administration in the next phase of the proceeding. This decision is not concerned with long-term program administration, but rather with ensuring that 2003 statewide programs are up and running as soon as possible.

Finally, commenters pointed out funding needs in their areas (City and County of San Francisco), urged us to carefully scrutinize IOU programs (Women's Energy Matters), or addressed the IOU refrigerator recycling programs (ARCA). We will consider these specific comments as we evaluate the proposals before us, and issue a decision addressing those proposals in the first quarter of 2003.

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments are due on January 3, 2003, and reply comments are due on January 10, 2003.

V. Assignment of Proceeding

Loretta Lynch is the Assigned Commissioner and Sarah Thomas is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Assigned ALJ had authority to issue a ruling setting forth the process for the 2003 energy efficiency funding cycle.
2. The ALJ's proposed process is reasonable.
3. The amount of bridge funding we authorize here is based on IOU expenditures for energy efficiency programs during the same period in 2002.

Conclusions of Law

1. It is reasonable for parties seeking funding for energy efficiency programs and statewide marketing and outreach programs for 2003 to follow the process set forth in this decision.
2. It is reasonable to allow bridge funding for the first quarter of 2003 to avoid program disruption.

O R D E R**IT IS ORDERED** that:

1. We ratify the process set forth in ALJ Thomas' October 23, 2002 Ruling whereby Investor Owned Utilities (IOUs) Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company were required to file and serve plans for their 2003 energy efficiency programs on or before November 4, 2002.
2. We also ratify ALJ Thomas' ruling providing that IOUs and third parties could file and serve proposals for the \$10.057 million available for statewide marketing and outreach programs on or before December 2, 2002. Depending on

the quality of the proposals the Commission receives, we will consider raising the funding level for statewide marketing and outreach programs to \$20 million.

3. To prevent service disruption, we authorize the IOUs whose programs will expire at the end of 2002 to continue those programs through March 31, 2003, using Public Goods Charge collections from that period, in the amounts set forth in the body of this decision.

The IOUs may only use these funds for their 2002 programs authorized in D.02-03-056 and D.02-05-046. If the Commission issues a decision on 2003 program applications prior to that time, this “bridge funding” shall expire upon issuance of that decision. If the IOUs incur expenses in 2003 before the Commission issues this decision, they should track those expenses for future recovery.

This order is effective today.

Dated _____, at San Francisco, California.